

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

I.T.R. No.61 of 1988
Date of decision: 15.09.2006

Commissioner of Income Tax (Central), Ludhiana.

---Applicant

Vs.

M/s Oswal Woollen Mills Ltd., Ludhiana

-----Respondent

**CORAM:- HON'BLE MR JUSTICE ADARSH KUMAR GOEL
HON'BLE MR JUSTICE RAJESH BINDAL**

Present: Mr. S.K. Garg Narwana, Advocate for the Revenue.

Mr. Gaurav Mohunta, Advocate for
Mr. Sanjay Bansal, Advocate
for the respondent.

ORDER:

Following questions of law have been referred for opinion of this Court by the Income Tax Appellate Tribunal, Chandigarh, arising out of its order dated 10.11.1987 in respect of assessment year 1981-82:-

1. “Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in allowing the assessee’s claim for Rs.2,36,935/- on account of ‘leave with wages’ in spite of the fact that it was simply a provision and a contingent liability?”
2. “Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in allowing the assessee’s claim for depreciation and investment allowance on grain analysers despite the fact that there was no proof of its use in the industrial undertaking?”
3. “Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding the Refinery units at Ludhiana and Madras as ‘Industrial

undertaking' for the purposes of Investment allowance and deduction u/s 80J with respect thereto?"

4. "Whether on the facts and in the circumstances of the case, and on a proper interpretation of the relevant provisions of law/rules, the Appellate Tribunal was right in law in allowing investment allowance on electrical installations such as exhaust fans and humidifiers?"
5. "Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in allowing tour expenses of Rs.77,713/- as revenue expenditure despite the fact that they were incurred for the import of machinery (capital asset)?"

Following our earlier judgment in **The Commissioner of Income-tax (Central) Ludhiana v. M/s Oswal Woollen Mills, Ltd., Ludhiana**, (ITR No.60 of 1988) passed on 19.4.2006, we decide questions No.1 to 4 in favour of the assessee and against the revenue.

We find that question No.1, herein, was question No.6 in the said judgment. It was held:-

"As regards question No.6 is concerned, it is covered by a judgment of Hon'ble the Supreme Court of India in **Bharat Earth Movers v. Commissioner of Income-tax**, [2000] 245 ITR 428, which was followed even in assessee's own case in **Commissioner of Income-tax v. Oswal Woollen Mills Ltd** [2002] 254 ITR 666. No contrary view has been shown on behalf of the Revenue. Accordingly, following the said judgment, we answer this question in favour of the assessee and against the Revenue.

Question Nos.2 and 4, herein, were identical to question No.5 in the said judgment. It was held:-

“As regards question No.5 is concerned, it is covered by a judgement of Gujarat High Court in **C.I.T. v. Starlight Silk Mills P. Ltd.** [2006] 280 ITR 257 taking a view that AC plants, electric installation and transformers form integral part of plant and machinery, hence investment allowance is available on the same. No contrary view has been shown by learned counsel for the Revenue. Keeping in view findings of facts recorded by CIT(A) and affirmed by the Tribunal to the effect that humidifiers in wool chambers are part of plant and following the judgment referred to above, we answer the question in favour of the assessee and against the Revenue.”

Questions No.3, herein, is similar to question No.4 in the said judgment. It was held:-

“As far as question No.4 is concerned, the counsel for the parties are agreed that the question referred to above has already been answered in favour of the assessee and against the Revenue by a judgment of this Court in **C.I.T. v. Oswal Woollen Mills Ltd. (No.1)** [2002] 257 ITR 737, following the same, we answer this question against the Revenue and in favour of the assessee”

As regards question No.5, the finding recorded by the Tribunal is that the tour was for the purpose of exploring foreign market and purchase of machinery required for modernization of existing unit.

In view of this finding, we are of the view that the Tribunal was right in allowing tour expenses of Rs. 77,713/- as revenue expenditure even if no machinery was purchased.

The reference is disposed of accordingly.

**(ADARSH KUMAR GOEL)
JUDGE**

September 15, 2006
ashwani

(RAJESH BINDAL)
JUDGE